

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
Civil Action No: 1:24-cv-00103-CCE-JLW**

TAMMY MCCRAE-COLEY,

Plaintiff,

v.

**THOMAS L. CARDELLA &
ASSOCIATES, INC., d/b/a TLC
ASSOCIATES,**

and

INFOCISION, INC.,

Defendants.

**DEFENDANTS' JOINT MOTION
TO DISMISS THE FIRST
AMENDED COMPLAINT**

Pursuant to Federal Rule of Civil Procedure 12(b)(6), Defendants Thomas L. Cardella & Associates, Inc. and InfoCision, Inc. (collectively, "Defendants") respectfully move to dismiss this action in its entirety for failure to state a claim. In a previous arbitration addressing the same claims and calls at issue here, the arbitration award established facts that preclude two of Plaintiffs claims, and Plaintiff is collaterally estopped from re-litigating those claims now. Plaintiff's remaining claim is also subject to dismissal because it fails to allege any factual basis with which to establish the existence of a statutory violation. A memorandum in support is filed contemporaneously with this Motion.

Respectfully submitted, this 26th day of March, 2024.

/s/ Jason R. Benton

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Counsel for Defendant Thomas L. Cardella & Associates, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this date the foregoing “*Defendants’ Joint Motion to Dismiss the First Amended Complaint*” was electronically filed with the Clerk of Court using the CM/ECF system and served upon counsel of record via the Court’s electronic case filing system and upon *Pro Se* Plaintiff via First Class Mail and email, addressed as follows:

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This 26th day of March, 2024.

/s/ Jason R. Benton

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